

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2772 OF 2001
WITH
NOTICE OF MOTION NO.3019 OF 2001
IN
SUIT NO.3859 OF 2001

Vikas Housing Ltd. .. Plaintiffs

Vs.

Ravi Ashish Developers Ltd & Ors. ..Defendants

Mr.R.K.Desai for the plaintiffs

Mr.A.Narula with Mr.A.Dasgupta i/b Jhangiani Narula
and Associates for the defendants

CORAM : S.U.KAMDAR, J
DATED : 16TH SEPTEMBER, 2005

P.C.:

1. The present suit is filed on the basis of an agreement for sale which is at Ex.A to the plaint. It is the case of the plaintiffs that under the said agreement he has purchased certain property. The schedule of the agreement specifies the description of the property as survey no.266 (part) CTS No.699 (Part) admeasuring 1,723 sq.mtrs and the boundary towards the South bearing Survey

No.261 (part), CTS No.620 (part) South Survey No.261 CTS No.621 which is at Ex.A. It clearly indicates the clear division of the property between C.T.S. No.699 (part) and 620/9/2(part). The learned counsel has filed the present suit purportedly contending that he has been dispossessed from the property bearing CTS No. 620A/2. Admittedly there is no document to show under which he has been put in possession in respect of C.T.S. No.620A/2 or any in part thereof.

2. By an appeal court order the DILR were directed to survey the land. DILR has filed their report. Report has been placed before me. Report clearly identifies the boundary line in respect of C.T.S. 699 (part) and 620A/2 and 620A/1 and A/3. In the aforesaid circumstances, the contention of the plaintiff that the receiver should be appointed in respect of property which is not belonging to him in respect of C.T.S. No.620A/2 cannot be granted. Suit is in respect of the property belonging to the plaintiff which is 699 (part). The learned counsel for the defendants undertakes

to this court that he will not interfere with and or encroach upon on in any manner disturb the possession of the plaintiff from the property being 699(part). In so far as 620A/2 is concerned plaintiff has failed to show that the plaintiff was in possession thereof. No order is passed in respect of CTS No.620(part). Undertaking given by the learned counsel for the defendant is in respect of 699 (part) is accepted. The boundary of the property will be in accordance with DILR report. Report is already filed. Copies are already furnished to both the parties. Both the motions are disposed of accordingly. No order as to costs.